'B' Class

NOTES

MYSORE GOVERNMENT SECRETARIAT

File No. AFD 325 DST 57.

Department of Agriculture & Hort

Section forest

Subject: Grant of 75-00 acres of Malai to Shri M.R. Subbanna Gowda -

References:

Date	To whom sent	Notes and instructions
		Forest 3/1/58 6/1/59

A

1.1.4.04

ಅಧಿಕಾರಿ

ಸರ್ಕಾರಿ ಕೆಲಸದ ಮೇಲೆ ಬಾಯಿಬಿಡಲಾಗಿದೆ

ಸ್ವಂತ ಕೆಲಸಕ್ಕೆ ಮುದ್ರೆ ಬೀಳಿಸಿದಲ್ಲಿ ದಂಡ

any other land: dated 5-11-54 (P 12)

(2) According to the order of the Cons of Forests in Shri Subbanna has no claim at all on the land as ex-lessee. (P 67)

The orders passed by the Chief Sy on 31-10-56 without ~~ruling~~ the Cons of Forests are faulty as the land was already re-granted by the Cons of Forests on 27-2-56 (P 41)

Under the circumstances the request of Subbanna may be refused and the C.C.F. may be directed to inform Shri Shri Subbanna accordingly.

Mrs 29/8/57

It is cancelled an order of by Comy Govt. There to Examine it. Re up Next Ordinary

DS

30.8.57

Resubmitted to the D.S.

Mrs 30/9/57

DS

(3) A full history of the case is in flag A (D.F.O's report) Re

491 Male in question has been leased to Kantappa Gowda for a further period of 21 years with effect from 1.4.56 by a competent authority (C.C.F. Comy) & necessary lease bond executed after survey of 200 acres is in the file. It is dated 24.10.56. Please see the papers in flag A. particularly page 6 & 7. containing the typed note of Chief Secretary and Ministers orders thereon all dated 30.10.56. The Chief Minister when he passed his

Mysore Government Secretariat

Sub:- Grant of 75 Acres of Malai to Shri M.R. Subbayya Gowda out of the 200 acres granted to Shri Kantappa Gowda in Doorra Satiath Mafai Molth. Coorg Dn

File No. 81-193 [App. F. III 2]

Serial No.

Letter No. A2-9025/57, dated 31-7-57, from the C.C.I., B'lore, He has reported that Shri Kantappa Gowda was granted 200 acres of land for cardamum cultivation on lease for 21 ~~years~~ years with effect from 1-4-56. This area was formerly ~~was~~ leased out to Shri Moolemajilu Bellappa for cultivation. He surrendered his claim over this land in 1954 to Shri ~~Kan~~ Kantappa Gowda and this was approved by Govt of Coorg (Vide his proceedings No. C-2-1535/54, dated 5-11-54). Thus Shri Bellappa has no claim over this land even as ex lessee. The brother of Bellappa, Shri Subbayya Gowda after the ~~release~~ re-grant of the area to Shri Kantappa Gowda, applied for grant of 75 acres out of this area, ~~the~~ putting his claim as ex-lessee of the area and managed to get order from the Chief Sey to Govt of Coorg for grant of 75 acres of land out of the 200 acres already granted to Shri Kantappa Gowda. ~~It~~ When this order was found to be rather complicated ~~in execution~~ for execution, both the parties were called by D.C. Mercara to settle the matter amicably even by offering some other extra area. But ~~both the parties~~ Subbayya insists to have 75 acres of land out of the 200 acres granted already to Shri Kantappa Gowda and he does not want

Note.—Contn. Sheet

AFD 325 DST 57.

(4)

Mysore Government
Secretariat

File No. of 195 .

[App. F. III 2

Serial No.

his order d 30.10.56. was not fully appreciated the facts. Please see portion marked A. on page 6 of flag H (para 11) Re ABC, states that out of 200 acres proposed to be released to Kanthappa Gowda, 75 acres may be given to Subbana Gowda. This statement is not correct. The lease of 200 acres had already been given from 1.4.56 & even lease deed executed on 24.10.56. This was evidently not known to the Chief Minister. There was no regular appeal against the order of C.C.F. granting the lease. It is pretty certain that Govt will be involved in serious litigation, if 75 acres is to be given out of 200 acres already leased & possession given. The only concession that can be shown to Subbana Gowda is to give some other 75 acres, but he is not satisfied with the proposal & Kanthappa Gowda refuses to give any part of the area leased to him & possession given. It seems, therefore, desirable to not to grant the request of Subbana Gowda as recommended by CC.F. If it is considered necessary, C.B. may be consulted afresh in the circumstances it is legal to enforce the order of Coorg Govt d 30-10-56, & also it will not involve Govt in serious litigation in which Govt may not succeed.

Secy (A.F.)

Addl Secy

4.9.57

Minister

Law Dept)

2721/57-OPN
Law III

Sri NKH (Cabinet)
Sri PNN
IIB

7331
HFF

7/9/57

7338/HFF

Law Department.

F.No. 2351 /Law
Sec. III
7-9-57

Lease of 200 acres of land in Devarasuttiath Malai for cardamom cultivation for a period of 21 years has been granted to Shri Kanthappa Gowda with effect from 1-4-56 by the Conservator of Forests, Coorg and Shri Kanthappa Gowda

dl 4624
11/9

Note.—Contn. Sheet to

Serial No.

having paid the necessary upset price and having executed the necessary lease deed has also been put in possession of the Malai. But the Government of Coorg, apparently on the petition of one Shri M.R.Subbanna and presumably without the knowledge of the lease in favour of Shri Kanthappa Gowda made order on 31-10-56 directing the grant of 75 acres out of the said 200 acres and leased to Shri M.R.Subbanna treating him as an ex-lessee and the balance to Shri Kanthappa Gowda. Shri Kanthappa Gowda was not a party to this order and this order by no means binds him nor affect his lease-hold rights. Any attempt to dis-possess him of any portion of the lease-hold property in pursuance of this order of the Government would be futile as Shri Kanthappa Gowda can successfully resist it by recourse to Court, if necessary. It is open to him to seek the aid of a Court of Law by way of injunction to restrain Government or anybody from interfering with his possession of the lease-hold property. Then the order of the Government cannot be legally given effect to and any attempt to enforce this order is bound to involve Government in litigation and expose it to liabilities such as damages not to speak of the costs of litigation.

It is seen from a perusal of the order of the Government that it has been made assuming that the lease had only been proposed to be granted to Shri Kanthappa Gowda and not granted to him (though in fact the lease had already taken place with effect from 1-4-56). The grant of lease was recommended to Shri Subbanna mainly

WD-0136 -GPB—P. Z. S.— 80,000 —21-4-57.

Serial No.

as ex-lessee, a claim made on mis-representation of facts. It is no doubt true that the earlier lease was in favour of Shri Belliappa, the brother of Shri Thimmappa but this was transferred to Shri Kanthappa Gowda in the year 1953 in pursuance of the compromise petition in Cr.Mis.Case No.57 of 1951. In fact, Shri Thimmappa was also a party to it. In consideration of this transfer of lease, as per terms of the said compromise, Shri Kanthappa Gowda had to execute a sale-deed of certain lands in the name of Shri Belliappa and Shri Subbanna. The grievance of Shri Subbanna is that the sale-deed has been executed solely in the name of his brother Shri Belliappa. Even so, it cannot nullify the transfer of lease in favour of Shri Kanthappa Gowda and does not entitle even Shri Belliappa, the original lessee, to claim lease-hold rights or to be treated as an ex-lessee. The only remedy open to Shri Subbanna is to enforce in an appropriate proceeding the execution of the deed in his favour. Further, when the lease was in favour of Shri Belliappa, how Shri Subbanna can claim to be ex-lessee cannot be easily grasped. It is in these circumstances clear that the Government made the order in question without the knowledge that the lease had already been granted to Shri Kanthappa Gowda and on a mis-representation of facts as to the status of Shri Subbanna as ex-lessee. The Government order being thus vitiated by mistake and mis-representation of facts is of no effect and is

A/20 325 DST 57

File No. 2351/Law of 195 .

Mysore Government Secretariat

Serial No. 2721

liable to be cancelled or rescinded.

Secretary (A&F)

D.S.-Law.
11/10.
R. SANJEEVALU
Dy. Secy. Law Dept.

OFFICE OF THE MINISTER FOR AGRICULTURE
No. 3527
19 OCT 1957
BANGALORE

11/10/57

to the M(Agri)

The papers may be submitted for approval. If the above suggestions are approved, a draft order cancelling the Govt order issued by Govt of Coorg will be put up.

11/10/57

We may withdraw the order issued by the new definite Coorg Govt as it is tied in law. Re-consider the Lr. Subbamagowda with 75 acres & original lease will get 75 (4+4) assigned 200 acres fully. Since Subbamagowda was expected to get 75 acres from the Coorg Govt according to orders passed, it reasonable to satisfy them & it is suggested that he may be given 75 acres, on the same terms, outside the 200 acres granted to Kantappa Gowda. In fact this amicable settlement was suggested previously but at that time Subbamma Gowda was adamant. He may be given one more chance to consider the offer. This will satisfy both & cover up an irregular order of Govt & decide most probably two other litigations. The restriction is in plot system. If the owner to each plot, an uncultivated back has to be left

Secy (A&F) 19/10

Chambers 11/7 DS 89 40/4 HA

9088 HA

R. Agriculture) 20/10

Min (Agri)

WD-0136-GPB—P. Z. S.—80,000—21-4-57.

Mysore Government Secretariat

No. AFD 325 DST 5
File No. of 195

[App. F. III 2

(8)

Serial No.

A

The Chief Secretary to the Govt of former Coorg has directed the C.C.F. Mercara to grant 75 acres of land out of the Malai land proposed to be granted to Sheri Kantappa Gowda & Sheri M.R. Subbanna, in the letter form. Orders have not been communicated in the G.O. form. Hence Govt may communicate the C.C.F. Mcore about the cancellation of these instructions in the letter form only. Hence a letter to the C.C.F. is put up accordingly for approval.

Ags 28/10/57 As per oral instructions of the D.S. a draft G.O. is put up for approval.

Ags 28/10/57 ['A' is not the criterion to decide whether instructions of Govt issued or issued not issue in G.O. form.]

Ex. Publ 31.x.57

Done 31/10/57 DS

A draft letter to the C.C.F returning the file is put up for approval

Ags 5/11/57

Ex Publ 6.11.57

Note.—Contn. Sheet

1/C (9)

AFD-7373

NO.A2-9025/57 CHIEF CONSERVATOR'S OFFICE
BANGALORE DATED JULY 1957

To — Euele files

31

The Secretary to Government

Agriculture and Forest Departments,

Bangalore.

Sir,

Sub;- Grant of 75.00 acres of Malai to Sri.M.R.Subbanna Gowda out of the 200 acres granted to Sri.Kaluvaje Kanthanna Gowda in Devara Sathiath Malai, North Coorg Division.

--

I enclose herewith the connected file received from the Conservator of Forests, Coorg Circle on the subject. Sri.Koolemajilu Bellianna was given 50 acres of land (which turned out to be 200 acres on ground) for Cardomam cultivation for a period of 21 years. At the tail end of the lease period, the lease was transferred to Sri.Kanthanna Gowda. After the expiry of the lease period (on 31-3-56) it was renewed in favour of Sri.Kanthanna Gowda for a further period of 21 years. This lessee paid the amount due as per rules and executed an agreement and the area was placed in his possession with effect from 1-4-1956.

Mr.Subbanna Gowda, the ~~xxxxx~~ brother of Sri.Koolemajilu Bellianna, gave a petition to the Coorg Government representing that he should be treated as the ex-lessee and that at least 75 acres out of the 200 acres should be given to him.

The District Forest Officer and the Conservator of Forests, Coorg reported to Government that the request was not just and that it would involve the Department in litigation. The Government of Coorg, however, passed orders that out of the 200 acres given to Sri.Kanthanna Gowda, 75 acres may be given away to Sri.Subbanna Gowda. The Conservator of Forests, in obedience to the orders of Government, instructed the District Forest Officer to

P.T.O.

(10)

mark out the 75 acres. Sri.Kanthappa Gowda preferred on appeal to me to stay the proceedings until his representation was examined. I issued stay orders and obtained the records which I have submitted to Government.

As the Ex-Coorg Government issued orders to take away the 75 acres from the area already leased out, I have referred the case to Government for issue of orders. I am of opinion that Sri.Kanthappa Gowda is on strong legal grounds.

I request very early orders of Government. The records may be kindly returned when done with.

Yours faithfully,

M. C. Muthanna

(M.A.MUTHANNA)
CHIEF CONSERVATOR OF FORESTS.

C. F. No. 46]

GOVERNMENT OF MYSORE

No. A2-6365/57
Encls.

Encl. One Bound

OFFICE OF THE Chief Conservator's Office in Mysore Bangalore

Date August 1957

To

The Secretary to Government

Agriculture and Forest Departments

Bangalore.

Sir,

Subject:- Grant of 75.00 acres of Malai to Sri. M.R.Subbanna Gowda out of the 200 acres granted to Sri.Kalvaji Kanthappa Gowda in Devara sathiath Malai, North Coorg Division.

--

Further to this office letter No.A2-9025/57 dated 31-7-57, on the above subject, I enclose herewith the lease bond executed between the former Conservator of Forests Coorg and Sri.K.Kanthappa Gowda for favour of kind perusal and return.

Yours faithfully,

(M.A.MUTHANNA)
CHIEF CONSERVATOR OF FORESTS.

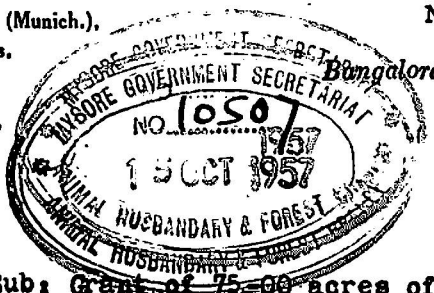
Telegram "CHIEFCON"
Phone { Office : 2346
Residence : .....

MYSORE FOREST DEPARTMENT

5/12

Dr. K. KADAMBI, M.Sc., D.Sc. (Munich.),
Chief Conservator of Forests.

NEW PUBLIC OFFICES,
Bangalore-1, dated. 15.10.1957.



D.O. No. A2-6365/57.

Dear Sir,

Sub: Grant of 75.00 acres of malai to Mr.M.R. Subbanna Gowda out of the 200 acres granted to Sri.Kalvveje Kanthanna Gowda in Devara Sathai malai, N.C. Division.

-0-0-0-0-0-0-

I invite your kind reference to the marginally noted

This office letters of even number dated 31.7.57 and 22.8.1957.	communications and request that orders of Government

may kindly be obtained and communicated early.

Yours sincerely,

Sri.M.N.Gundu Rao, B.A., B.L.,
Deputy Secretary to Government
Agriculture and Forest Departments,
BANGALORE.

10

M. G. S. App. F VI—G. 2]

7/(13)

SUBJECT Grant of 75 acres of Malai to Shri M.R. Subbamma Gowda and 25 the 200 acres granted to Shri Kaluraje Kantappa Gowda in Devara Sathiath Malai, North Coorg Dn.

Diary No. of letter replied to.....

Section

Serial No.

Mysore Government Secretariat

File No.

( )

the 195 .

Proceedings of the Government of Mysore

Date of Issue.....195 .

Read—letter No. RD-9025/57 dated 31-7-57, from the C.C.F. & Conservator requesting to obtain orders of Govt. thereon.

Signed by.....

Issued

5.11.57

May this be—

(i) printed?
(ii) treated as a Standing Order?
(iii) published in the Gazette, English Part?
(iv) translated?
(v) placed at the disposal of the Press?
(vi) published in the Gazette, Kannada Part?

Order thereon.—No. RFD 325 DEF 57

Govt is pleased to direct (dated 5.11.57) that the orders issued in the letter No. A.4.14123/57 dated 31.x.56 from the new Govt of Coorg (in connection with the grant of 75 acres of land out of the 200 acres of land originally allotted to Shri Kaluraje Kantappa Gowda, in Devara Sathiath Malai North Coorg Dn to Shri M.R. Subbamma Gowda

(14)

be
hereby cancelled. as, it seems Govt is also bound to
Coorg Govt have issued orders direct that proposals for the same
on the basis of incomplete records. land to Sri Subbanna
because the area of 200 acres should be submitted for the
has been already been released consideration of Govt (provided
by the C.C. to Coorg Sri Subbanna is agreeable
to Shri Kantappa Gowda before the issue to take such lease.
of the Govt orders.

2. The C.C.F is required
to act further
action accordingly.

By order. &c

2-31

for Sec to Govt
Agr Dept.

Copy sent to the C.C.F. Coorg
for information and necessary
action (with case papers
and lease bond)

List of Enclosures. To
The C.C.F.

2) He should direct the Conservator
Coorg, to propose some other land
elsewhere to be granted to Shri Subbanna
if he (Subbanna) is prepared to accept.

Copied by

Examined by

WD 0269—GPB—P.Z.S.—1,00,000—23-2-56

(15) 9/c

PROCEEDINGS OF THE GOVERNMENT OF MYSORE.

Read:-

Letter No.A2-9025/57 dated 31-7-57 from the Chief Conservator of Forests, Bangalore requesting to obtain Orders of Government.

Order No.AFD 325 DST 57
Bangalore, Dated, 5.11.57

Government is pleased to direct that the orders issued by the now defunct Government of Coorg in its Government Letter No.A4.14123/56 dated 31-X-56 in connection with the lease to Shri M.S. Subbanna of 75 acres of land out of the 200 acres of land leased previously to Shri Kaluvaje Kantappa Gowda in Devara Sathiath Malai North Coorg Division should be cancelled. Government is also pleased to direct that proposals for the lease to Shri Subbanna of 75 acres of some other forest land preferably close to 200 acres leased should be submitted for the consideration of Government provided Shri Subbanna is agreeable to take such lease.

2. The Chief Conservator of Forests is requested to take further action accordingly.

(K.B. Gundu Rao)
Deputy Secretary to Government,
Agriculture & Forest Departments.

To
The Chief Conservator of Forests in Mysore, Bangalore.

Comm.Cir/14/11.

11/c (16)

M. G. S. App. F VI—G. 2]

SUBJECT Grant of 2.25 acres of Malai to Shri M.R. Subbamma Gowda out of the 5.00 acres granted to Shri Kuluvoje Kouthappa Gowda in Devdora Kathiath Malai North Coorg Dn.

Diary No. of letter replied to.....

Mysore Government Secretariat

( )

the 195 .

Date of issue.....195 .

Signed by.....

May this be—

(i) printed?
(ii) treated as a Standing Order?
(iii) published in the Gazette, English Part?
(iv) translated?
(v) placed at the disposal of the Press?
(vi) published in the Gazette, Kannada Part?

No AFD 325 DST 57 dt 13.11.57

Section

Serial No.

File No.

Proceedings of the Government of Mysore

To

Read—

The C.C.I.C. Bldg

Sir

Ref. your letter No. A2-9025/57, dated 31.7.57, on the above subject-

Order thereon. No.

2) I am directed to return the file sent by you under your letter mentioned above and the lease bond. This is in continuation of the Govt-order No. AFD 325 DST 57 dated 5-11-57.

By Order

Sd/-

Sec to Govt

Issued with

Dy.

13.11.57

5/11/57

(17)

PROCEEDINGS OF THE CONSERVATION OF FORESTS, COORG.

No.C-2-1535/54 Mercara, the 5th November, 1954.

Subject: Lease of Devara Suttiath Malai - transferring for the unexpired period of one year from 1955 to 31-3-1956 from Sri Moolemajlu Belliappa to Sri Kaluvaje Kanthappa Gowda.

Read:- (1) Application dated 20th July 1954 from Sri Kaluvaje Kanthappa Gowda and the relevant papers.

(2) Letter No. 1412 dated 5-11-1964 from Srp C.S. Narayana, B.A., B.L., Advocate, Mercara, enclosing the letter of consent from Sri Moolemajlu Belliappa.

(3) Consent letter dated 5-11-1954 of Moolemajlu Belliappa.

Permission is accorded for the transfer of the unexpired cardamom lease of Devara Suttiath Geni malai of 50(fifty) acres - located in Kalur village, Kadamakal Reserve, now standing in the name of Sri Moolemajlu Belliappa, for the unexpired period i.e., from the date of this order upto 31-3-1956 (thirty-first March, One thousand nine hundred and fifty six) which is the date of expiry of the lease to the name of Sri Kaluvaje Kanthappa Gowda, from the name of Sri Moolemajlu Belliappa, subject to the following conditions:-

(1) The transferee should immediately pay to Govt. the assessment due fro the unexpired period of the lease i.e., upto 31.3.1956.

(2) He deposits a sum of Rs.(60)- sixty only as security deposit for the lease for this unexpired period till 31-3-1956.

(3) He enters into a fresh agreement within fifteen days of this order for this lease for this period.

(4) Since the original leasee has definitely stated he is not in a position to work the lease, his claim will not be considered for any future malais. Since the transferee is only an enjoyee for a short period he will not be permitted to put forward any claim for a lease of genimalais on the basis that he is an ex-lessee or this area is being resumed by the Forest Department in 1956, nor willhe be treated as an ex-lessee for any purpose. The transferee is clearly informed that this areas is merged in the Timber working Circle, and as such he is definitely warned against investing any amount on improving the same.

Sd/-
Conservator of Forests.

Copy to Sri Moolemajlu Belliappa through the Ranger Officer, Sampaje

Copy to Sri Kaluvaje Kanthappa Gowda, through -do-

Copy to the Ranger Officer, Sampaje

Copy to the Assistant to the Conservator of Forests, Mercara.

Copy to lease file.

Copy to the Chief Secretary to the Govt. of Coorg for favour of information and necessary action.

Copy to the Pampathigar, Mercara for information.

"Copy"

rln. 13/11/57.

Devara Suttiath Malai - contd.

Submitted. The C.F's querry on the pre page.

Cardamom malais were not being leased on actual survey but by inviting tenders for a period of 21 years. The intending tenderers were offering a lump sum per year after estimating the yield in the malai irrespective of the area. The areas were also determined on eye estima e or on enquiries made through the previous lessees or villagers. If approved proceedings will be put up.

Yes
(intd).

(Intd.)

Submitted

Draft proceedings put up

Ref: Conservator's proceedings Np. T.C. dt. 20-2-1956.

Submitted. If approved 200 acres of Devar Suttiath malai will be leased to the ex-lessee Sri K. Kanthappa Gowda.

Sd/-
22/2/56.

Yes
(Intd)

Submitted. If approved the D.C.F's suggestion will be accpeted.

Please take necy. action

(intd).

"Co.y"

(17)

No.T.C.390/57.

Office of the District Forest Officer,
North Coorg Circle, Mercara
Dated 9th April, 1957.

From

The District Forest Officer,
North Coorg Division,
Mercara.

To

The Conservator of Forests,
Mercara.

Sub: Devara Suttiath Malai-Grant of 75 acres to Sri K.R. Subbana Gowda.

Ref: Conservator's No. M-39-144/57-19-2-57

Sir,

With reference to your above order I had requested both Messrs. K. Kanthappa Gowda and K.R. Subbana Gowda to be present on 5-3-57 in my office at Mercara. Mr. Kanthappa Gowda had come on the above date and gave his statement saying that he is not willing to part with 75 acres of Malai from his share. He wanted to settle this matter through the Court of Law.

Mr. Subbana Gowda has given his statement saying that he wanted 75 acres of malai out of 200 acres granted to the first party as per the orders of the erstwhile Govt. and not from any other malai. Their statements are enclosed herewith for favour of perusal.

Therefore, I am unable to settle this case amicably.

Sd/-

District Forest Officer.

"Copy"

rln.

(20)

Letter No. A.4.14123/56, dated the 31st October, 1956, from the Chief Secretary to the Government of Coorg, Mercara, to the Conservator of Forests, Coorg, Mercara.

Subject: Deverasathiath Malai in Kaloor Village - Granting of 75 acres to Sri Subbanna Gowda.

I am directed to refer to your endorsement No. 6302, dated the 28th July, 1956, and to state that 75 acres of Malai from Devesathaiath Malai out of the area proposed to be leased to Shri Kanthappa Gowda, may be granted to Sri M.R. Subbanna Gowda, Clerk, Record Office of the Assistant Commissioner for a period of 21 years, treating him as an ex-lessee of the above Malai. The balance may be leased to Shri Kanthappa Gowda.

"Copy"

rln.